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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/061,638 | 01/31/2002 | Robert Eugene Jevons | 5007117-1 | 1833 |

21129 7590 08/01/2003

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EXAMINER

COHEN, AMY R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2859

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/061,638

Applicant(s)

JEVONS ET AL.

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 8-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Amendment, filed 18 July 2003, with respect to the Office Action dated 25 April 2003, made final have been fully considered and are persuasive. The finality of the Office Action has been withdrawn. Examiner uses new grounds of rejection.

Claim Objections

2. Claim 1 is objected to because of the following informalities:

Claim 1, line 4 "said leg ends" lacks proper antecedent basis in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Guerin (U. S. Patent No. 5,720,114).

Guerin teaches a workpiece positioning tool comprising: a generally flat base member (1) for supporting a workpiece thereon, said base member having first (2) and second legs (3) joined at an angle (Figs. 1 and 3), said first and second legs having front edges and back edges (Figs. 1 and 3), said leg ends and front edges of said first and second legs being unobstructed (Figs. 1 and

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3), a first sidewall (31) connected to said back edge of said base member first leg at a generally right angle to said flat base member (Fig. 3), a second sidewall (31) connected to said back edge of said base member second leg at a generally right angle to said flat base member (Fig. 3), said second sidewall having a first end adjacent said first sidewall and a unobstructed second end, and said first sidewall having a first end adjacent said second sidewall and, an unobstructed second end (Fig. 3), a void (4, not labeled in the Figs. 1 and 3 but described on Col 4, lines 15-29) extending upwardly from said base member and between said first and second adjacent ends.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guerin in view of Ponich (U. S. Patent No. 3,276,128).

Guerin discloses the workpiece positioning tool as described above in paragraph 4 and having a plurality of voids (32) in said first and second sidewalls (Fig. 3).

Guerin does not disclose a workpiece positioning tool comprising a plurality of voids in the base member.

Ponich discloses a workpiece positioning tool (Fig. 3) comprising a plurality of voids (42) in the base member (41).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the workpiece positioning tool of Guerin to include a plurality of voids in the base member, as taught by Ponich, so that the tool could be easily gripped (Ponich, Col 3, lines 32-42) and so that the tool could be further positioned or secured to a workpiece or other tools.

7. Claims 8-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Guerin in view of Thiel (U. S. Patent No. 3,367,224).

Guerin discloses the workpiece positioning tool as described above in paragraph 4.

Guerin does not disclose a workpiece positioning tool wherein said first and second legs of said generally flat base member are joined at a 22.5, 30, 45, 60, or 90 degree angle.

Thiel discloses a workpiece positioning tool (Fig. 1) wherein the angle between the first (21) and second (23) legs of the base member are at angles other than 90 degrees (Fig. 3, Col 2, lines 53-72 and Col 3, lines 1-5 and lines 45-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tool of Guerin to have the base legs at different angles, as taught by Thiel, so that other angular measurements could be made (Thiel, Col 3, lines 1-5 and lines 45-50).

Regarding the angle between the first and second legs of the base: Guerin and Thiel disclose an workpiece positioning tool where the angle is variable but do not specifically states a particular value for this angle. However, to choose a an angle of 22.5, 30, 45, 60, or 90 degrees between the legs, absent any criticality, is only considered to be the "optimum" value of the angle between the legs, as stated above, that a person having ordinary skill in the art would have

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been able to determine using routine experimentation based, among other things, on the desired accuracy and since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. See *In re Boesch*, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to join the first and second legs of the generally flat member at angles of 22.5, 30, 45, 60, or 90 degrees.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (703) 305-4972. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3431.

ARC
July 30, 2003



Diego Gutierrez
Supervisory Examiner
Tech Center 2800